

FINDINGS, CONCLUSIONS AND DECISION
OF THE CITY COUNCIL OF THE CITY OF SEATTLE

In the matter of the Petition)	
of)	
)	
Lesley Bain)	C.F. 310211
)	DPD Project 3010378
)	
To rezone 55,870 square)	FINDINGS, CONCLUSIONS
feet of land located at 711)	AND DECISION
Bellevue Avenue East from)	
LR3 to MR-60)	
)	

Introduction

This matter involves a request by Lesley Bain to rezone approximately 55,870 square feet of property located at 711 Bellevue Avenue East from Lowrise 3 (LR3) to Midrise with a 60 foot height limit (MR-60). A portion of the property is located on a steep slope in an environmentally critical area. Attachment A shows the area to be rezoned.

On October 25, 2010, the Director of the Department of Planning and Development (DPD) recommended approval of the rezone, with conditions. On December 16, 2010, after holding an open-record hearing, the Hearing Examiner issued her Findings and Recommendation that recommended approval of the rezone, subject to conditions.

The Council received one appeal of the Hearing Examiner's Findings and Recommendation. The appeal challenged the Hearing Examiner's conclusion that the steep slope was created by human activity. Property designated as environmentally critical may not be rezoned from LR3 to MR-60 unless the environmentally critical area was created by human activity or is a designated peat settlement, liquefaction, seismic or volcanic hazard, or flood prone area, or abandoned landfill.

The matter first came before the Committee on the Built Environment (Committee) on April 27, 2011. At that meeting, the Committee reviewed the Hearing Examiner's file and staff report, and considered the merits of the rezone petition and appeal. On May 25, 2011, the Committee voted to recommend that the full Council deny the appeal because the record contained substantial evidence supporting the Hearing Examiner's conclusion that the steep slope was created by human activity and the appellant provided no evidence refuting the Hearing Examiner's conclusion. The Committee also voted to recommend the full Council approve the rezone, with conditions, and that the rezone expire six (6) years from the effective date of its approval unless, within that six (6) year period, an application is filed for a Master Use Permit that is subsequently issued.

Findings of Fact and Conclusions

1. The Council adopts the Hearing Examiner's Findings of Fact and Conclusions of Law for C.F. 310211, dated December 16, 2010.
2. The Council adopts the conditions recommended in the Hearing Examiner's Findings and Recommendation for C.F. 310211, dated December 16, 2010, amended to read as follows:

General conditions:

- 1) Approval of the rezone shall be conditioned upon the development of the proposed project in accordance with the final approved Master Use Permit drawings, dated June 9, 2010, which substantially conform to the conditions established during the design review process, including the structure design, structure height, building materials, landscaping, street improvements, parking lot design and layout, signage, and site lighting.
- 2) The operation of any form of "drinking establishment" (as that term is defined in SMC Section 23.84A.010) shall be prohibited on the site.

SEPA conditions – prior to issuance of any construction, shoring or grading permits:

- 3) The Owners shall provide to the DPD Land Use Planner for approval a Construction Management Plan that identifies construction worker parking and construction material staging areas; truck access routes to and from the site for excavation and construction phases; and sidewalk and street closures with neighborhood notice and posting procedures.
- 4) The Owners shall provide to the DPD Land Use Planner for approval a Construction Noise Management Plan. The Plan shall include a discussion on management of construction-related noise, efforts to mitigate noise impacts, and community outreach efforts to allow people within the immediate area of the project to have opportunities to contact the site to express concern about noise. Activities outside the above-stated restrictions may be authorized upon approval of the Plan to address mitigation of noise impacts resulting from all construction activities. Elements of noise mitigation may be incorporated into any Construction Management Plans required to mitigate any short-term transportation impacts that result from the project.

SEPA conditions – during construction:

- 5) The hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:00 a.m. and 6:00 p.m. and between the hours of 9:00 a.m. and 6:00 p.m. on Saturdays (except that grading, delivery and pouring of cement and similar noisy activities shall be prohibited on Saturdays). This condition may be modified by DPD to allow work of an emergency nature. This condition may also be modified to permit low noise exterior work (e.g., installation of landscaping) after approval from DPD.
- 6) For the duration of the construction activity, the Owners/responsible party shall cause construction truck trips to cease during the hours between 4:00 p.m. and 6:00 p.m. on weekdays.

Design Review condition – prior to the issuance of any Certificate of Occupancy:

- 7) The Owners shall arrange for an inspection with the DPD Land Use Planner to verify that the construction of the buildings with siting, materials, and architectural details is substantially the same as those documented in the approved plans dated June 9, 2010.

Decision

The Council GRANTS a rezone of the property from LR3 to MR-60 as described above and found in Attachment A. The rezone is subject to the execution of a Property Use and Development Agreement (PUDA) requiring the property owner to comply with the

amended conditions described above. The rezone remains in effect unless revoked pursuant to Section 23.34.004.

Dated this _____ day of _____, 2011.

City Council President

ATTACHMENT A

